

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Resolution No. 8685, authorizing execution of the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013.

FISCAL IMPACT

Approving this Agreement will have no fiscal impact to the City. The IIA supplements the Letter of Credit required as part of the approved Ground Lease, Joint Development & Joint Operating Agreement with the BGCB that secures the financial obligation of the BGCB to fund their cost of the improvements to Hidden Valley Park.

STAFF CONTACTS

Patrick Foran, Director, 452-5377

Glenn Kost, Planning & Development Manager, 452-5258

Parks and Community Services Department

Monica Buck, Assistant City Attorney, 452-4082

City Attorney's Office

POLICY CONSIDERATION

Should the City Council approve the Indemnity and Intercreditor Agreement that, together with the Letters of Credit, secures the financial obligation of the BGCB to fund their share of the cost of the improvements to Hidden Valley Park?

BACKGROUND & PROPOSED INDEMNITY AND INTERCREDITOR AGREEMENT

On August 5, 2013, the City entered into a Ground Lease, Joint Development & Joint Operating Agreement with the Boys & Girls Clubs of Bellevue (Resolution No. 8618, the Partnership Agreement). The Partnership Agreement provides that the City would lease a parcel of land at Hidden Valley Park to the BGCB to allow them to construct and operate a gymnasium in exchange for public benefits that include sharing the cost to construct athletic field and site improvements at Hidden Valley Park. The BGCB's share of the site improvements is estimated at \$2,396,000 based on the construction contract awarded at the January 6, 2014 Council meeting, plus estimated soft costs.

Paragraph D.3.c. of the Partnership Agreement requires the BGCB to furnish the City with an Irrevocable Letter of Credit (LOC) to cover its cost of the site improvements on terms satisfactory to the City. The BGCB would like to supplement the required LOC with an Indemnity and Intercreditor Agreement (IIA).

The BGCB is in the midst of a capital fundraising campaign to fund a series of BGCB projects, including the gymnasium and site improvements provided for in the approved Partnership Agreement with the City. They have raised approximately \$10 million to date. However, most of these funds are in the form of multi-year pledges rather than cash; therefore the BGCB is unable to provide a single LOC to secure the full amount of the proposed construction contract.

They have instead proposed satisfying this requirement with two LOC's, one from the BGCB and one from individual BGCB contributors. The IIA consents to the establishment of the two LOC's and establishes a draw order for the two LOC's. Staff have worked with the BGCB to develop this IIA, are satisfied that it meets the requirements of the Partnership Agreement, and are confident the BGCB will be able to meet its financial obligations established in the Partnership Agreement adopted by Council last August.

EFFECTIVE DATE

If adopted by Council, this Resolution will become effective immediately.

OPTIONS

1. Adopt Resolution No. 8685, authorizing execution of the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013.
2. Do not adopt Resolution No. 8685, and provide alternative direction to staff.

RECOMMENDATION

Adopt Resolution No. 8685, authorizing execution of the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013.

MOTION

Move to adopt Resolution No. 8685, authorizing execution of the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013.

ATTACHMENT

Proposed Resolution No. 8685

AVAILABLE IN COUNCIL OFFICE

Proposed Indemnity and Intercreditor Agreement

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 8685

A RESOLUTION authorizing execution of the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute the Indemnity and Intercreditor Agreement (IIA) between the City, the Boys & Girls Clubs of Bellevue (BGCB), and individual BGCB contributors, to secure BGCB's financial obligations set forth in the Ground Lease, Joint Development & Joint Operating Agreement dated October 21, 2013, a copy of which IIA has been given Clerk's Receiving No. _____.

Passed by the City Council this _____ day of _____, 2014, and signed in authentication of its passage this _____ day of _____, 2014.

(SEAL)

Claudia Balducci, Mayor

Attest:

Myrna L. Basich, City Clerk